

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERTO DURAND,

Plaintiff

v.

MILKE,

Defendant

Case No. 3:22-cv-00153-RCJ-CSD

ORDER

(ECF Nos. 1, 3, 4)

I. DISCUSSION

On April 1, 2022, Plaintiff Roberto Durand, an inmate in the custody of the Nevada Department of Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C. § 1983 and filed three applications to proceed *in forma pauperis*. (ECF Nos. 1-1, 1, 3, 4). Plaintiff's applications to proceed *in forma pauperis* are incomplete. Plaintiff has not submitted an inmate account statement for the previous six-month period with any of his applications. Moreover, the documents that Plaintiff has submitted tend to show that he is not entitled to *in forma pauperis* status. (See ECF Nos. 1 at 7, 3 at 5, 4 at 4).

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and
- (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period.**

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1 Accordingly, the Court denies Plaintiff's applications to proceed *in forma pauperis*
2 (ECF Nos. 1, 3, 4) without prejudice because the application is incomplete. The Court will
3 grant Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma*
4 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete
5 application to proceed *in forma pauperis* on or before **June 13, 2022**. Absent unusual
6 circumstances, the Court will not grant any further extensions of time. If Plaintiff does not
7 file a fully complete application to proceed *in forma pauperis* with all three required
8 documents on or before **June 13, 2022**, this case will be subject to dismissal without
9 prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all
10 three of the documents needed to file a fully complete application to proceed *in forma*
11 *pauperis* or pays the full \$402 filing fee.

12 A dismissal without prejudice means Plaintiff does not give up the right to refile the
13 case with the Court, under a new case number, when Plaintiff has all three documents
14 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
15 may choose not to file an application to proceed *in forma pauperis* and instead pay the
16 full filing fee of \$402 on or before **June 13, 2022**, to proceed with this case.

17 The Court will retain Plaintiff's civil-rights complaint (ECF No. 1-1) but the Court
18 will not file the complaint unless and until Plaintiff timely files a fully complete application
19 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

20 **II. CONCLUSION**

21 For the foregoing reasons, IT IS ORDERED that Plaintiff's applications to proceed
22 *in forma pauperis* (ECF Nos. 1, 3, 4) are denied without prejudice to Plaintiff's ability to
23 file a new fully complete application to proceed *in forma pauperis* with all three
24 documents.

25 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
26 approved form application to proceed *in forma pauperis* by an inmate, as well as the
27 document entitled information and instructions for filing an *in forma pauperis* application.

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1 IT IS FURTHER ORDERED that on or before **June 13, 2022**, Plaintiff will either
2 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
3 administrative fee) or file with the Court:

4 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
5 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
6 signatures on page 3),

7 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
8 official (i.e. page 4 of this Court's approved form), and

9 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
10 **previous six-month period.**

11 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
12 application to proceed *in forma pauperis* with all three documents or pay the full \$402
13 filing fee for a civil action on or before **June 13, 2022**, this case will be subject to dismissal
14 without prejudice for Plaintiff to refile the case with the Court, under a new case number,
15 when Plaintiff has all three documents needed to file a complete application to proceed
16 *in forma pauperis* or pays the the full \$402 filing fee.

17 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
18 (ECF No. 1-1) but will not file it at this time.

19 DATED: April 13, 2022.

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22 UNITED STATES MAGISTRATE JUDGE
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